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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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8 MICHAEL L. BUESGENS,

No. C 09-80045 MISC

9 Plaintiff,

**ORDER DENYING PLAINTIFF LEAVE
TO FILE**

10 v.

11 BEVERLY HART, et al.,

12 Defendants.
13 _____/

14 On March 11, 2009, plaintiff Michael Buesgens attempted to file a complaint in this Court.
15 Plaintiff is subject to a Court order that restricts his right to file actions in any federal court. The Order
16 was issued by the United States District Court for the Western District of Texas. *See Buesgens v. Travis*
17 *County*, Texas, Case No. A-07-CA-427-§, Docket No. 4 (hereinafter “the Texas pre-filing order”).

18 The Court must give the Texas pre-filing order “full force and effect, irrespective of the reasons
19 upon which it is based.” *Lapin v. Shulton, Inc.*, 333 F.2d 169, 172 (9th Cir. 1964); *see, e.g., Carter v.*
20 *United States*, 733 F.2d 735, 736 (10th Cir. 1984) (Colorado district court had no jurisdiction to afford
21 relief from mandatory injunction issued by district court in another circuit that restrained plaintiff’s
22 “right to file lawsuits in state and federal courts throughout the country”); *see also Treadaway v.*
23 *Academy of Motion Picture Arts and Sciences*, 783 F.2d 1418, 1421 (9th Cir. 1986) (*Lapin* applies not
24 only to injunctions, but “to independent attacks on all types of final judgments” entered in other
25 districts).

26 On December 22, 2008, plaintiff filed a complaint in this district without seeking leave of the
27 Court, as required by the Texas pre-filing order. The case was assigned to the Honorable Maxine
28 Chesney. *See Buesgens v. Beverly Hart*, Case No. 08-5710 MMC. Plaintiff moved to voluntarily

1 dismiss that complaint. In her February 26, 2009 order dismissing the complaint without prejudice,
2 Judge Chesney directed plaintiff as follows:

3 If plaintiff seeks to refile the instant complaint or any other complaint in this District,
4 plaintiff is hereby ORDERED to submit to the Clerk of the Court, along with any
5 proposed complaint, a copy of the pre-filing order issued June 21, 2007 by the Honorable
6 Sam Sparks, in *Buesgens v. Travis County, Texas*, Case No. A-07-CA-427-§ (Western
7 District of Texas).

8 *See* Feb. 26 Order, *2, Docket No. 65 (Case No. 08-5710). The following day, plaintiff sought leave
9 to file the same complaint that was filed in Case No. 08-5710. Plaintiff's application, numbered C 09-
10 80039 MISC, was assigned to the undersigned judge, who is currently designated as Duty Judge. This
11 Court found that much of the proposed complaint duplicated the complaint that gave rise to the Texas
12 pre-filing order. Plaintiff's application for leave to file was therefore denied. It appears that plaintiff
13 intends to appeal the denial of his application to the Ninth Circuit. *See* C 09mc80039 SI, docket Nos.
14 1, 2.

15 Plaintiff has now again attempted to file the same complaint, this time asserting – without
16 foundation – that he is not required to request leave to file the complaint. He is wrong: he may not file
17 this complaint without leave of court. He does not have leave of court, and he therefore may not file
18 this complaint.

19 **IT IS SO ORDERED.**

20 Dated: March 12, 2009



21 **SUSAN ILLSTON**
22 United States District Judge
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